

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

IN THE MATTER OF:

Columbian Chemicals Company

3500 South Road S

Ulysses, Kansas 67880

Proceedings Pursuant to Section 113
of the Clean Air Act,
42 U.S.C. §§ 7413

NOTICE OF VIOLATION

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This Notice of Violation (NOV) is issued to Columbian Chemicals Company (Columbian), for violations of the Clean Air Act ("CAA" or "Act") at its carbon black manufacturing plant near Hickok, Kansas. Specifically, Columbian has violated Title I of the CAA by failing to comply with the Prevention of Significant Deterioration (PSD) requirements of the CAA and the Kansas State Implementation Plan (SIP), and the Federal Title V requirements.

This NOV is issued pursuant to Section 113 of the Act, as amended, 42 U.S.C. § 7413. Section 113(a) of the CAA requires the Administrator of the United States Environmental Protection Agency (EPA) to notify any person in violation of a SIP. The authority to issue this NOV has been delegated to the Regional Administrator of EPA Region 7 and further re-delegated to the Director, Air and Waste Management Division, EPA Region 7.

STATUTORY AND REGULATORY BACKGROUND

1. The Clean Air Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

A. The National Ambient Air Quality Standards.

2. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger

public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards ("NAAQS") requisite to protect the public health and welfare.

3. Pursuant to Sections 108 and 109, 42 U.S.C. §§ 7408 and 7409, EPA has identified sulfur dioxide (SO₂), nitrogen dioxide (NO₂), fine particulate matter (PM_{2.5}), particulate matter, (PM or PM₁₀) and ozone as criteria pollutants, and has promulgated NAAQS for such pollutants. *See* 40 C.F.R. §§ 50.4, 50.5, 50.6, 50.7, 50.11, and 50.15.

4. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an "attainment" area with respect to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a "nonattainment" area with respect to such pollutant.

5. An area that cannot be classified as either "attainment" or "nonattainment" with respect to a particular pollutant due to insufficient data is termed "unclassifiable" with respect to such pollutant.

6. At all times relevant to this NOV, Grant County, Kansas, where the Hickok plant is located, has been classified as attainment or unclassifiable with respect to all criteria pollutants.

A. Prevention of Significant Deterioration

7. Part C of Title I of the Act (Sections 160 through 169), 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS standards. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process. 42 U.S.C. § 7470. These provisions are referred to herein as the "PSD program."

8. Section 165(a) of the Act, 42 U.S.C. § 7475(a), among other things, prohibits the construction and operation of a "major emitting facility" in an area designated as attainment or unclassifiable unless a permit has been issued that comports with the requirements of Section 165 and the facility employs the best available control technology ("BACT") for each pollutant subject to regulation under the Act that is emitted from the facility.

9. Section 169(1) of the Act, 42 U.S.C. § 7479(1), designates carbon black plants (furnace process) which have the potential to emit one hundred or more tons per year or more of any air

pollutant, as well as any other source with the potential to emit two hundred and fifty tons per year or more of any air pollutant, to be "major emitting facilities."

10. Section 169(2)(C) of the Act, 42 U.S.C. § 7479(2)(C), defines "construction" to include "modification" (as defined in Section 111(a) of the Act). "Modification" is defined in Section 111(a) of the Act, 42 U.S.C. § 7411(a), to be "any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted."

11. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require each state to adopt a state implementation plan ("SIP") that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.

12. On June 19, 1978, EPA established regulations implementing the federal PSD program at 40 C.F.R. § 52.21 and requirements for SIP approved programs at 40 C.F.R. § 51.166. *See* 43 Fed. Reg. 26,403 (June 19, 1978). Since that time, the PSD regulations have been revised, with subsequent revisions incorporated under 40 C.F.R. § 52.21.

13. A state may comply with Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, by having its own PSD regulations, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166, approved by EPA as part of its SIP. If a state does not have a PSD program that has been approved by EPA and incorporated into its SIP, the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).

14. The state of Kansas SIP was first approved on May 31, 1972. The Kansas SIP provisions related to PSD were codified in the Kansas Administrative Regulations (KAR) at 28-19-17 through 28-19-17q. The Kansas PSD regulations were initially approved by EPA on December 11, 1984, with revisions approved on August 22, 1988, April 20, 1989, January 16, 1990, January 12, 1993, and February 26, 2003. The Kansas PSD regulations are now codified under KAR 28-19-350, which was initially approved by EPA on February 26, 2003, with revisions approved on May 29, 2007 and February 22, 2011. The Kansas regulations generally adopted the relevant and applicable provisions of the federal PSD regulations, including the definitions set forth at 40 C.F.R. § 52.21.

15. Kansas' SIP program is promulgated under KAR 28-19-350. *See* 40 C.F.R. § 52.870(c).

16. The regulations appearing at KAR 28-19-17 prior to February 26, 2003, and at KAR 28-19-350 after February 26, 2003, were incorporated into and part of the Kansas SIP at the time of the major modifications alleged in this NOV. All citations to the PSD regulations herein refer to the provisions of the Kansas SIP as applicable at the time of the major modifications alleged herein.

17. KAR 28-19-350 incorporates by reference 40 CFR 52.21, except the sections in KAR 28-

19-350(b)(2) and (3).

B. Requirements for Title V Operating Permit

18. Title V of the Act, Sections 501 through 507, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources, including "major sources." The purpose of Title V is to ensure that all "applicable requirements" for compliance with the Act, including PSD requirements, are collected in one place.

19. Section 502(a) of the Act and its implementing regulations at 40 C.F.R. Part 70, as well as the Kansas Title V permit requirements, state that it is unlawful for any person to violate any requirement of a permit issued under Title V, or to operate an affected source except in compliance with a permit issued by a permitting authority under Title V.

20. Section 502(f) and 40 C.F.R. § 70.6(a) require all operating permits issued under Title V to include enforceable emission limitations and such other conditions as are necessary to assure compliance with "applicable requirements" of the Act and the requirements of the applicable SIP. "Applicable requirement," defined at 40 C.F.R. § 70.2, includes any applicable PSD requirements.

21. 40 C.F.R. § 70.5(a) requires any owner or operator of a source subject to the Title V program to submit a timely and complete permit application that contains information sufficient to determine the applicability of any applicable requirements (including any requirement to meet BACT pursuant to PSD), certifies compliance with all applicable requirements, provides information that may be necessary to determine the applicability of other applicable requirements of the Act, and contains a compliance plan for all applicable requirements for which the source is not in compliance.

22. 40 C.F.R. § 70.5(b) requires any applicant who fails to submit any relevant fact or who has submitted incorrect information in a permit application to promptly submit such supplementary facts or corrected information upon becoming aware of such failure or incorrect submittal.

23. EPA granted full approval of the Kansas Title V program on January 30, 1996. 40 C.F.R. Part 70, Appendix A. *See also* 61 Fed. Reg. 2,938 (Jan. 30, 1996). These regulations are currently codified at KAR 28-19-500 *et seq.* and are federally enforceable pursuant to Section 113(a)(3).

FACTUAL BACKGROUND

24. Columbian owns and operates a carbon black manufacturing facility at Hickok, Kansas (Facility).

25. Columbian is a Delaware corporation, with its headquarters located in Marietta, Georgia.

26. Columbian is a “person,” within the meaning of sections 113(a) and 502 of the CAA, 42 U.S.C. §§ 7413(a) and 7661a, and as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

27. At the Facility, Columbian currently operates two carbon black units (Units 2 and 3). Columbian produces carbon black by heating heavy residual oil in a low-oxygen environment to crack the hydrocarbons into particulate carbon and other compounds. This carbon black is produced for the tire manufacturing industry.

28. The Facility meets the definition of a “major stationary source” in 40 C.F.R. § 52.21(b)(1)(i)(a) because it is a carbon black plant that has the potential to emit in excess of 100 tons per year of the following regulated pollutants: nitrogen oxides (NO_x), sulfur dioxide (SO₂), particulate matter (PM), volatile organic compounds (VOC), carbon monoxide (CO), hydrogen sulfide (H₂S), and total reduced sulfur (TRS).

29. Grant County, where the Facility is located, is designated as either attainment or unclassifiable for all criteria pollutants. 40 C.F.R. § 81.317.

30. The Facility currently operates under a Federal Operating Permit (Source ID No. 0670007) that was issued by the Kansas Department of Health and Environment (KDHE) on February 4, 2004 and renewed on July 17, 2012.

31. By an information request letter issued pursuant to the authority of section 114 of the Act, 42 U.S.C. § 7414, dated October 29, 2010, to Columbian, EPA required Columbian to submit specific information regarding its Hickok carbon black manufacturing Facility. Columbian responded to EPA’s section 114 information requests on January 31, 2011, June 13, 2011 and August 25, 2011.

FINDING OF VIOLATIONS

32. Upon review of the information provided by Columbian, referenced above in paragraph 31, EPA Region 7 has concluded that Columbian conducted systematic capital projects on carbon black units at the Facility which increased Facility’s capacity to produce carbon black.

33. Furthermore, the activities described below in Paragraphs 34 through 59, are “major modifications” as defined under 40 C.F.R. § 52.21(b)(2)(i) because they represent: a physical change in, or a change in the method of operation of, a major stationary source that resulted in a significant emissions increase of a regulated NSR pollutant(s) (specifically NO_x, SO₂, CO, VOC, TRS, H₂S), and significant net emissions increases of those pollutants from a major stationary source.

(1) Failure to Obtain PSD Permit Prior to Making a Major Modification at Unit 2, made in or about November 1995 (VOC and/or CO Emissions Increases)

34. In or about November 1995, Columbian modified Unit 2 by installing a new preheater and an additional dryer. The purpose of the project was to increase the carbon black production capacity of the Facility by debottlenecking existing production limitations.

35. In December 1995, the Kansas Department of Health and Environment (KDHE) approved a construction permit for the installation of the additional dryer. However, the permit did not mention the installation of the new preheater.

36. This modification triggered "significant" increases in CO and/or VOC emissions, as defined in both 40 C.F.R. § 52.21(b)(23) (1995) and KAR 28-19-17 (1995).

37. In failing to apply for or obtain authority, via necessary preconstruction permits, prior to installing a preheater at Unit 2 at the Facility in or about November 1995, Columbian continues to be in violation of federal and state requirements for preconstruction permits under applicable PSD regulations, specifically those provided under 40 C.F.R. § 52.21(i)(1) (1995) and KAR 28-19-17 (1995).

38. In failing to apply BACT to the major modification made to Unit 2 at the Facility in or about November 1995, and commencing operations each day thereafter without applying necessary technologies under BACT, Columbian continues to accrue violations of applicable federal and state PSD requirements for major modifications, specifically those provided under 40 C.F.R. § 52.21(j)(3) (1995) and KAR 28-19-17 (1995).

39. In operating the Facility after approximately November 1995, and continuing to operate thereafter, without obtaining or applying for the required permit to operate following completion of the major modification to Unit 2, Columbian continues to accrue violations of applicable federal and state PSD regulations, specifically those provided under 40 C.F.R. §§ 52.21(r)(1) (1995) and 70.1(b) (1995) and KAR 28-19-17 (1995).

(2) Failure to Obtain PSD Permit Prior to Making a Major Modification at Unit 3, made in or about October 1997 (VOC and/or CO Emissions Increases)

40. In or about October 1997, Columbian modified Unit 3 by installing a larger drop from the LB elevator, installing a vent line from the elevator to the vapor bag collector, and installing a larger variable speed drive unit on the dryer. The purpose of the project was to increase the carbon black production rates of the Facility and decrease downtime.

41. This modification triggered "significant" increases in CO and/or VOC emissions, as defined in both 40 C.F.R. § 52.21(b)(23) (1997) and KAR 28-19-17 (1997).

42. In failing to apply for or obtain authority, via necessary preconstruction permits, prior to the modifications referred to in paragraph 40 at Unit 3 at the Facility in or about October 1997, Columbian continues to be in violation of federal and state requirements for preconstruction permits under applicable PSD regulations, specifically those provided under 40 C.F.R. §

52.21(i)(1) (1997) and KAR 28-19-17 (1997).

43. In failing to apply BACT to the major modification made to Unit 3 at the Facility in or about October 1997, and commencing operations each day thereafter without applying necessary technologies under BACT, Columbian continues to accrue violations of applicable federal and state PSD requirements for major modifications, specifically those provided under 40 C.F.R. § 52.21(j)(3) (1997) and KAR 28-19-17 (1997).

44. In operating the Facility after approximately October 1997, and continuing to operate thereafter, without obtaining or applying for the required permit to operate following completion of the major modification to Unit 3, Columbian continues to accrue violations of applicable federal and state PSD regulations, specifically those provided under 40 C.F.R. §§ 52.21(r)(1) (1997) and 70.1(b) (1997), and KAR 28-19-17 (1997).

(3) Failure to Obtain PSD Permit Prior to Making a Major Modification at Unit 2, made in or about January 1998 (VOC and/or CO Emissions Increases)

45. In or about January 1998, Columbian modified the Unit 2 dryer by installing variable speed drives and installing dryer seals and lifting vanes of a different design. The purpose of the project was to increase the dryer capacity and thereby increase carbon black production rates of the Facility.

46. This modification triggered "significant" increases in CO and/or VOC emissions, as defined in both 40 C.F.R. § 52.21(b)(23) (1998) and KAR 28-19-17 (1998).

47. In failing to apply for or obtain authority, via necessary preconstruction permits, prior to conducting the dryer modification at Unit 2 at the Facility in or about January 1998, Columbian continues to be in violation of federal and state requirements for preconstruction permits under applicable PSD regulations, specifically those provided under 40 C.F.R. § 52.21(i)(1) (1998) and KAR 28-19-17 (1998).

48. In failing to apply BACT to the major modification made to Unit 2 at the Facility in or about January 1998, and commencing operations each day thereafter without applying necessary technologies under BACT, Columbian continues to accrue violations of applicable federal and state PSD requirements for major modifications, specifically those provided under 40 C.F.R. § 52.21(j)(3) (1998) and KAR 28-19-17 (1998).

49. In operating the Facility after approximately January 1998, and continuing to operate thereafter, without obtaining or applying for the required permit to operate following completion of the major modification to Unit 2, Columbian continues to accrue violations of applicable federal and state PSD regulations, specifically those provided under 40 C.F.R. §§ 52.21(r)(1) (1998) and 70.1(b) (1998), and KAR 28-19-17 (1998).

**(4) Failure to Obtain PSD Permit Prior to Making a Major Modification at Unit 2,
made in or about June 2003 (VOC and/or CO Emissions Increases)**

50. In or about June 2003, Columbian modified the Unit 2 dryer by increasing the size of the combustion air blowers and installing lifting vanes in the dryer drum to increase capacity.

51. This modification triggered "significant" increases in CO and/or VOC emissions, as defined in both 40 C.F.R. § 52.21(b)(23) (2003) and KAR 28-19-350 (2003).

52. In failing to apply for or obtain authority, via necessary preconstruction permits, prior to undergoing a dryer modification at Unit 2 at the Facility in or about June 2003, Columbian continues to be in violation of federal and state requirements for preconstruction permits under applicable PSD regulations, specifically those provided under 40 C.F.R. § 52.21(a)(2) (2003) and KAR 28-19-350 (2003).

53. In failing to apply BACT to the major modification made to Unit 2 at the Facility in or about June 2003, and commencing operations each day thereafter without applying necessary technologies under BACT, Columbian continues to accrue violations of applicable federal and state PSD requirements for major modifications, specifically those provided under 40 C.F.R. § 52.21(j)(3) (2003) and KAR 28-19-350 (2003).

54. In operating the Facility after approximately June 2003, and continuing to operate thereafter, without obtaining or applying for the required permit to operate following completion of the major modification to Unit 2, Columbian continues to accrue violations of applicable federal and state PSD regulations, specifically those provided under 40 C.F.R. §§ 52.21(r)(1) (2003) and 70.1(b) (2003), and KAR 28-19-350 (2003).

**(5) Failure to Obtain a Proper PSD Permit Prior to Making a Major Modification
at Unit 2, made in or about March 2007 (SO₂ Emissions Increases)**

55. In or about March 2007, Columbian modified Unit 2 by undergoing a dryer project, that consisted of changing the dryer natural gas burners, combustion air fans and dryer vapor fans. The project also included the installation of rotary valves and feedscrews of a different size and changing the loose black elevator arrangement, all in order to handle a larger volume of carbon black powder. The purpose of the project was to increase the carbon black production rates of the Facility.

56. This modification triggered "significant" increases in SO₂ emissions, as defined in both 40 C.F.R. § 52.21(b)(23) (2007) and KAR 28-19-350 (2007).

57. In failing to apply for or obtain authority, via necessary preconstruction permits, prior to undergoing dryer modifications at Unit 2 at the Facility in or about March 2007, Columbian continues to be in violation of federal and state requirements for preconstruction permits under applicable PSD regulations, specifically those provided under 40 C.F.R. § 52.21(a)(2) (2007) and

KAR 28-19-350 (2007).

58. In failing to apply BACT to the major modification made to Unit 2 at the Facility in or about March 2007, and commencing operations each day thereafter without applying necessary technologies under BACT, Columbian continues to accrue violations of applicable federal and state PSD requirements for major modifications, specifically those provided under 40 C.F.R. § 52.21(j)(3) (2007) and KAR 28-19-350 (2007).

59. In operating the Facility after approximately March 2007, and continuing to operate thereafter, without obtaining or applying for the required permit to operate following completion of the major modification to Unit 2, Columbian continues to accrue violations of applicable federal and state PSD regulations, specifically those provided under 40 C.F.R. §§ 52.21(r)(1) (2007) and 70.1(b) (2007), and KAR 28-19-350 (2007).

(6) Failure to Include BACT in the Title V Permit

60. On February 4, 2004 Columbian obtained a Class I Air Emission Source Operating Permit, Source ID Number 0670007. That Title V permit did not include BACT requirements for projects that should have gone through PSD review for the following pollutants: NO_x, SO₂, CO, VOC, H₂S, or TRS.

61. On July 17, 2012, Columbian obtained a Class I Operating Permit Renewal, Source ID Number 0670007. That Title V permit renewal did not include BACT requirements for projects that should have gone through PSD review for the following pollutants: NO_x, SO₂, CO, VOC, H₂S, or TRS.

62. Accordingly, the Title V permits issued to Columbian in February 2004 and July 2012 did not include emissions limitations for NO_x, SO₂, CO, VOC, H₂S, and TRS that assure compliance with the PSD requirements of the Act and the Kansas SIP.

63. In failing to assure compliance with all applicable emission limitations, specifically those requiring that it incorporate BACT for NO_x, SO₂, CO, VOC, H₂S, and TRS into its permit applications and subsequent permits, Columbian violated and continues to violate section 502(a) and 504(a) of the Act, 42 U.S.C. sections 7661a(a) and 7661c(a), as well as 40 C.F.R. sections 70.5 and 70.6(a).

ENFORCEMENT

64. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), provides that any time after the expiration of thirty (30) days following the date of the issuance of a Notice of Violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the state implementation plan or permit, issue an administrative penalty order pursuant to section 113(d), or bring a civil action pursuant to section 113(b) for injunctive relief and/or civil penalties.

65. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), provides in part that if the Administrator finds that a person has violated, or is in violation of Title V of the CAA, including a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under Title V, the Administrator may issue an administrative penalty order under section 113(d), issue an order requiring compliance with such requirement or prohibition, or bring a civil action pursuant to section 113(b) for injunctive relief and/or civil penalties.

66. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil penalty of up to \$25,000 per day for each violation occurring on or before January 30, 1997; up to \$27,500 per day for each such violation occurring on or after January 31, 1997 and up to and including March 15, 2004; up to \$32,500 per day for each such violation occurring on or after March 16, 2004 through January 12, 2009; and up to \$37,500 per day for each such violation occurring on or after January 13, 2009, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701, 40 C.F.R. § 19.4, and 74 Fed. Reg. 626 (Jan. 7, 2009) against any person whenever such person has violated, or is in violation of, *inter alia*, the requirements or prohibitions described in the preceding paragraph.

67. Section 167 of the Act, 42 U.S.C. § 7477, authorizes the Administrator to initiate an action for injunctive relief, as necessary to prevent the construction, modification or operation of a major emitting facility which does not conform to the PSD requirements in Part C of the Act.

PENALTY ASSESSMENT CRITERIA

68. Section 113(e)(1) of the Act, as amended, 42 U.S.C. § 7413(e)(1), states that the court, in an action for assessment of civil or criminal penalties, shall, as appropriate in determining the amount of penalty to be assessed, take into consideration (i.e., in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence, payment by the violator of penalties previously assessed for the same violation, the economic benefit of non-compliance, and the seriousness of the violation.

69. Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2) allows the court to assess a penalty for each day of violation. For purposes of determining the number of days of violation, where the United States makes a prima facie showing that the conduct or events giving rise to this violation are likely to have continued or recurred past the date of the NOV, or a previously issued air pollution control agency NOV, or the previous NOV, and each and every day thereafter, until Colombian establishes that continuous compliance has been achieved; except to the extent that Colombian can prove by the preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

OPPORTUNITY FOR CONFERENCE

70. Columbian may, upon request, confer with EPA. The conference will enable Columbian to present evidence bearing on the finding of violation, on the nature of violation, and on any efforts it may have taken or proposes to take to achieve compliance. Columbian has the right to be represented by counsel. A request for a conference must be made within 10 days of receipt of this NOV, and the request for a conference or other inquiries concerning the NOV should be made in writing to:

Alex Chen
Senior Counsel
U.S. EPA, Region 7
901 N. 5th Street
Kansas City, Kansas 66101
(913) 551-7962

71. By offering the opportunity for a conference or participating in one, EPA does not waive or limit its right to any remedy available under the Act.

DISCLOSURE INFORMATION

72. Certain companies may be required to disclose to the Securities and Exchange Commission ("SEC") the existence of certain pending or known to be contemplated environmental legal proceedings (administrative or judicial) arising under federal, state or local environmental laws. Please see the attached "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings" for more information about this requirement and to aid you in determining whether your company may be subject to the same.

73. EPA is enclosing an Information Sheet entitled "U.S. EPA Small Business Resources" (EPA 300-F-99-004, September 1999), which identifies a variety of compliance assistance and other tools available to assist small businesses in complying with federal and state environmental laws.

EFFECTIVE DATE

74. This NOV shall become effective immediately upon issuance.

Date

8/29/12


Becky Weber, Director

 Air and Waste Management Division